

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

United States of America,

Plaintiff

V.

Brian Wright,

Defendant

Case Nos.: 2:17-cr-00142-JAD-VCF

## Order Denying Defendant's Motion to Stay and Deeming Objections to PSR Waived

[ECF Nos. 167, 168]

Pro se defendant Brian Wright is pending sentencing on his conviction for two counts of assault of a federal officer. He recently moved the Ninth Circuit for a stay of sentencing so that he can petition for a writ of mandamus. Because I cautioned Wright at the last hearing that I would not continue his sentencing again absent an order from the Ninth Circuit, I issued an order earlier today making clear that “Wright’s latest Ninth Circuit filing changes nothing” and that this sentencing would proceed as scheduled on March 5, 2019.<sup>1</sup> “And because Wright did not file a sentencing memorandum by the Court’s extended deadline,” and the deadline for objecting to the presentence investigation report (PSR) has long since passed, I deemed any potential objection as waived.<sup>2</sup>

Shortly after my order was docketed, the court received from Wright mailed objections to the PSR and a motion to stay his sentencing pending the Ninth Circuit's ruling.<sup>3</sup> In his motion, Wright cites to Federal Rule of Appellate Procedure 8(a)(1), which requires a party seeking a stay from a circuit court pending an appeal to that court to first move the district court for a stay

<sup>1</sup> ECF No. 166 at 2.

<sup>2</sup> *Id.*

<sup>3</sup> ECF Nos. 167–68.

1 of the judgment or order being appealed. Wright's only stated justification for staying his  
2 sentencing is his bald assertion that the Ninth Circuit will overturn his conviction,<sup>4</sup> but he has  
3 cited no authority establishing that a district court may stay a sentencing based on the likelihood  
4 of a successful appeal. Because I perceive no legal basis for granting a stay, **I deny Wright's**  
5 **motion and again clarify that his sentencing will proceed as scheduled.** And although  
6 Wright eventually filed his objections to the PSR, they are long overdue **and are still deemed**  
7 **waived.**<sup>5</sup> Accordingly,

8 IT IS HEREBY ORDERED that Wright's motion to stay [ECF No. 168] is **DENIED**.  
9 His sentencing in this case will **proceed on Tuesday, March 5, 2019, at 2 p.m.** His objections  
10 to the PSR [ECF No. 167] are deemed **WAIVED**.

11 Dated: March 1, 2019

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13 U.S. District Judge Jennifer A. Dorsey  
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23 <sup>4</sup> ECF No. 168 at 2.

<sup>5</sup> See Fed. R. Crim. P. 32(f) (objections due 14 days after receipt of PSR). Wright received the revised PSR on January 7, 2019, making his objections due January 21, 2019.